

**REMARKS**

The present application stands with claims 1, 6 and 11 rejected under 35 U.S.C. §102(e) as being anticipated by the cited Gray et al. (Gray) patent. Claims 2-3, and 7-8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of the cited Goetz et al. (Goetz) patent. Claims 4 and 9 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of Goetz and further in view of the cited Brown et al. (Brown) patent. Claims 5, 10 and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of Goetz and further in view of the cited Katsuki reference. For the reasons below, the amended claims are believed to be patentable over the cited references.

Independent claims 1, 6 and 12 have been amended above to clarify that it is the level of charge, which is monitored and communicated. The cited Gray reference merely discloses sending a binary indication that the battery charge is either above a threshold or that the battery charge is below the threshold. In accordance with the amended independent claims, user equipment sends an actual battery usage level, which thereby allows a base station to decide whether or not a certain transmission should be undertaken. The base station knows the length of the file to be transmitted and hence the power consumption at the user terminal that sending the file to the user terminal would cause. This is a more sophisticated approach than what the prior art teaches. Amended independent claims 1, 6 and 12 are therefore believed to be neither anticipated nor obvious over Goetz or any of the other cited references alone or in combination and are therefore believed to be allowable. Accordingly, the rejection of these claims should be removed.

Dependent claims 5 and 10 have been amended in line with the amended independent claims. The rejections of dependent claims 2 through 5 and 7 through 11 should also be removed inasmuch as all these claims are dependent on what are now believed to be allowable claims.

For the reasons above, independent amended claims 1, 6 and 12 are neither anticipated by nor obvious over the cited references and should accordingly be allowed. The dependent claims thereon should also therefore be allowed. Passage to issue of the subject application is therefore respectfully requested. Should the Examiner feel that the present application is not yet in a condition for allowance and that a telephone or personal interview would be helpful, he is invited to contact applicants' undersigned attorney at **973, 386 8252**.

Respectfully submitted,

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